



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

to sign bills of exceptions not tendered within 60 days from the date of final judgment, and, there being no exceptions in the record and no reversible error on the face thereof, the judgment of the trial court was presumed to be correct in every respect.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 389.]

2. Criminal Law (§ 1092 (9)*)—Failure to Enter Order in Common-Law Order Book Did Not Extend Time for Presentation of Bills of Exceptions.—The fact that order was not actually spread upon the common-law order book of the court, but only a memorandum thereof was made by the clerk in the minute book regularly kept by him in which to note the daily proceedings of the court, did not extend time for the preparation and presentation of bills of exceptions, in view of Code 1919, § 5962.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 389.]

Error to Hustings Court of Portsmouth.

John Daley and A. P. Males were convicted of selling ardent spirits in violation of the statute, and bring error. Affirmed.

S. M. Brandt and *R. T. Thorp*, both of Norfolk, for plaintiffs in error.

John R. Saunders, *Atty. Gen.*, *J. D. Hank, Jr.*, *Asst. Atty. Gen.*, and *Leon M. Bazile*, *Second Asst. Atty. Gen.*, for the Commonwealth.

KITCHEN v. COMMONWEALTH.

March 30, 1922.

[111 S. E. 111.]

1. Criminal Law (§ 1159 (3)*)—Conviction on Conflicting Evidence Not Reversed.—A conviction of rape on conflicting evidence will not be disturbed.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 629.]

2. Criminal Law (§ 829 (18)*)—Instructions Covered by Other Instructions Held Properly Refused.—Instructions on reasonable doubt, covered by instructions given, were properly refused.

[Ed. Note.—For other cases, see 111 Va.-W. Va. Enc. Dig. 641.]

3. Indictment and Information (§ 159 (4)*)—Changing Name of Accused in Indictment during Trial Held Proper.—Under Code 1919, §§ 4875, 4878, as to misnomer and amendment, the court, during the trial, properly permitted the attorney for the commonwealth to change the name of accused in an indictment for rape from "R. A." to "Ira" K.; the identity of accused not being at any time questioned or doubted.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 450.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Error to Corporation Court of Roanoke.

Ira Kitchen was convicted of rape, and brings error.. Affirmed.

John G. Challice, of Roanoke, for plaintiff in error.

John R. Saunders, Atty. Gen., J. D. Hank, Jr., Asst. Atty. Gen., and Leon M. Bazile, Second Asst. Atty. Gen., for the Commonwealth.

BROWN *v.* COMMONWEALTH.

March 16, 1922.

[111 S. E. 112.]

1. Homicide (§ 314*)—Jury Can Not Fix Less Punishment on Convict for Murdering Guard than Electrocution.—Under Code 1919, § 5051, the jury can not fix any less punishment of a convict for murdering his guard than electrocution.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 169.]

2. Homicide (§ 144*)—In Prosecution for Murdering Guard, Commonwealth Must Prove Accused Was Convict.—In a prosecution of a convict for murdering his guard, under Code 1919, § 5051, the commonwealth must prove that at the time of the homicide accused was a convict.

3. Criminal Law (§ 446*)—Certified Copy of Judgment and Order of Condemnation Held Sufficient to Identify Defendant as Convict.—In a prosecution of a convict, under Code 1919, § 5051, for murdering his guard, a certified copy of the judgment and order of condemnation of defendant for a felony, for which the indictment charged he had been sentenced to a penitentiary term, which he was serving as a member of the convict road force, held sufficient to identify defendant as such convict.

Error to Circuit Court, Orange County.

Ernest Brown, a convict, was convicted of murdering his guard and he brings error. Affirmed.

E. H. De Jarnette, Jr., of Orange, for plaintiff in error.

John R. Saunders, Atty. Gen., J. D. Hank, Jr., Asst. Atty. Gen., and Leon M. Bazile, Second Asst. Atty. Gen., for the Commonwealth.

EVANS *v.* COMMONWEALTH.

March 16, 1922.

[111 S. E. 113.]

Criminal Law (§ 1159 (3)*)—Finding of Fact by Jury Conclusive.—In a prosecution for the manufacture and sale of ardent spirits,

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.